SECTION 2000

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2000 FAMILIES WITH CHILDREN - RELATED COVERAGE

Criteria for Medical Assistance coverage for families with children and persons under the age of 21 follow AFDC regulations in effect 7/16/96, as amended. This category of coverage is referred to as “AFDC-related” or “family-related” coverage. Recipients of TANF, including Alternative Assistance, are eligible for Medical Assistance, if they meet these requirements, including the need to assign their rights to medical payments for medical care. (See Section 1240.)

Individuals may be eligible for Categorically Needy or Medically Needy coverage. In addition, individuals must be part of a coverable group. Categorically Needy coverage groups are explained below.

The coverage groups include:

(a) Section 1931 eligibles - this group meets the 7/16/96 AFDC rules as amended by Medicaid. These rules include criteria for income, assets and maintenance of a home. “Section 1931” refers to the section of the Social Security Act under which they are covered.

(b) Transitional Medicaid includes those who become ineligible for coverage under Section 1931 due to an increase in their earnings, hours of employment or child support.

(c) Individuals under age 21 include those who live on their own, with one or both parents or with unrelated others.

(d) Pregnant women, regardless of age, have special eligibility rules.

(e) Other special coverage groups refers to various special groupings created by federal and/or state legislation.

Medically Needy refers to coverage available to individuals who are ineligible for any Categorical group due to income or assets. Coverage under Medically needy requires the individual to meet an income deductible or spend down as explained in Section 6000 of this manual.

2000.01 FINANCIAL RESPONSIBILITY OF RELATIVES

For all AFDC - related groups: the following rules apply. Refer to Section 2110.02 (*Physical Separation*) for a definition of when a child is “living with” the relative.

I. If an individual under 21 years of age is living with legal parent(s), the parental income and assets must be used in establishing eligibility and the parent(s) included in the appropriate standards.

If an individual under age 21 is living with caretaker relatives, the relatives may choose to get coverage if they have a coverable group. If the caretaker relative elects to get coverage, the relative's and the spouse's income and assets will be included in the determination of eligibility. If the relative elects not to get coverage, that relative's income and assets, as well as those of the spouse will be excluded in determining the needs of the child. However, if the excluded caretaker relative claims the child as a dependent on their income tax, a minimum of 50% of the full need standard is budgeted as income for the child.

The financial responsibility of relatives is limited to spouse for spouse (living together) and parents for children (under age 21 and living with parents).

A. When one parent or caretaker relative is an SSI or State Supplement recipient, that parent/relative's income, assets and needs are not considered in determining the eligibility of the remainder of the assistance unit.

B. When a child is eligible because their mother received Medicaid at the time of their birth (see Sec. 2140), the child is eligible without regard to changes in family income or assets for one year from birth.

II. Since relative responsibility does not exist between siblings, or from children to parents, those children with either income or assets which affect eligibility may be removed from the assistance unit. Such children are to be considered self-sufficient and no allocation of the parent's income may be made. These children may, however, be considered as a separate assistance unit. (See Section 1120.)

III. An 18 to 21 year old who is pregnant or is a parent is an "independent child". The parents' income and assets are not considered in budgeting.

A parent or pregnant person who is under age 18 (through age 17) or younger follows the budgeting guidelines for stepparent situations. (See Sections 2421 - 2422.)

2000.01 cont.

IV. If an individual under age 21 is married and living with the spouse, the spouse's income is counted and the spouse is included to determine the appropriate standards. In addition, if the married couple is living with parents, the parents' income and assets affect their child's eligibility as well but have no impact on their child's spouse. When the individual is pregnant or a parent, see exceptions under item (III.), above.

V. If the individual under age 21 is not living with parents, the parental income and assets are not counted. Any actual contributions made by the parents are counted as income, but the parents are not included to determine the appropriate standard.

2010 COVERED INDIVIDUALS

I. Individuals under age 21:

A. Dependent child: A person who lives with parents, with foster parents or with caretaker relatives who are maintaining a home for the child.

B. Independent child: A person who lives alone or with other individuals who are not their parent(s) or caretaker relative(s) or an 18 to 21 year old who is pregnant or is a parent.

School attendance does not affect eligibility for Medical Assistance except in the determination of countable income (see Sections 2321 and 2461) and whether the specified relative can be covered (Section 2110.01- *Maintenance of a Home*).

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II. Specified Relatives:

A. Legal parent(s),

B. Other relatives specified below have the option of being covered by Medicaid and being included with the dependent child in the assistance group. These are "caretaker relatives". They are:

1. brother or sister, including those of half-blood relationship;

2. stepbrother, or stepsister;

3. legal grandfather, grandmother, uncle or aunt or the same relatives of preceding generations as denoted by prefixes of great and great-great, or first cousin, nephew or niece;

4. the spouse of any persons in the above groups, though the marriage is terminated by death or divorce.

NOTE: A parent or caretaker relative whose only child receives SSI is potentially eligible under Section 1931 AFDC-related criteria.

C. Stepparents and the spouse of a caretaker relative;

Stepparents and the spouse of a caretaker relative have the option of being covered by Medicaid and being included with the dependent child in the assistance unit as long as this does not cause ineligibility for the stepchild or caretaker relative's child.

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2100 COVERED GROUPS

To be eligible for coverage, an individual must be in one of the following groups:

2110 SECTION 1931 OF THE SOCIAL SECURITY ACT

Individuals are potentially eligible under this group if they meet all of the following criteria:

2110.01MAINTENANCE OF A HOME

A specified relative is potentially eligible only if they are living with a dependent child for whom a home is maintained and that child is also covered by Medical Assistance. The child must be under age 18 or is age 18 and expects to graduate from high school prior to their 19th birthday.

The specified relative does not need to have legal custody as a result of court action in order to be considered to be maintaining a home for the child.

If the child lives part of the time with each parent, the parent with whom the child resides over 50% of the time must apply for the child. The applying parent and the child are the assistance unit.

The countable income of the applying parent is considered in determining eligibility of the child.

The only income of the non-applying parent that is counted is that which paid to the assistance unit and is countable.

If the child lives 50% of the time with each parent, either parent can apply for the child but not both. The applying parent and child are the assistance unit.

The countable income of the applying parent is considered in determining eligibility of the child.

The only income of the non-applying parent that is counted is that which paid to the assistance unit and is countable.

If a child is living with his/her legal parents but the parents are not married, all three (3) have a coverable group and are potentially eligible. The parents have a coverable group because they are residing with their child under age 18 (or 18 and expects to graduate from high school by age 19).

2110.01 cont.

If the only child is between the ages of 19 and 21, (or is age 18 and does not expect to graduate from high school prior to the 19th birthday), the parent or caretaker relative cannot receive Medicaid coverage unless the parent or caretaker relative is eligible in another category.

EXAMPLES:

I. The unit consists of a single mother and her 18 year old son. In June, the boy graduates from high school. The boy may remain eligible for Medical Assistance since he has a coverable group (under age 21). The mother is no longer eligible. She has no coverable group since she is not living with a dependent child covered by Medicaid and does not meet SSI disability criteria.

II. The unit consists of a mother, father, and their 19 year old daughter. The daughter may be eligible, depending on the income and assets of the group, however, the parents cannot be covered.

III. The unit consists of a mother, father, and 17 year old girl who is a sophomore in high school. On the child's eighteenth birthday, the parents' coverage is due to end. Discussion with the family prior to terminating the parents' coverage reveals that the mother has a condition which might meet disability criteria under the SSI program. Coverage for the girl continues. Coverage for the father is terminated. Coverage for the mother continues pending a decision from the Medical Review Team on her disability. If she does not meet criteria for SSI related disability (see Section 3130), her coverage must also end.

IV. The unit consists of a brother, age 20, who is the caretaker relative of his 18 year old sister. When she graduates from high school, both can continue to receive Medical Assistance as both are in the under 21 year old group.

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2110.02PHYSICAL SEPARATION

A child may be separated physically from the specified relative and still be considered to be living with the relative provided the relative retains full and exclusive responsibility for the supervision and guidance of the child, offers a home during vacations, and any other delegation of authority to another by the relative is temporary, voluntary, and revocable. When separation occurs, it is expected that the child or parent will return home at the completion of the reason for the separation. The following examples meet these conditions when a child or parent is away from the home.

I. To secure education when high school facilities are not maintained in the place of residence or if existing facilities do not meet the child's educational or social needs. In this later instance, the assessment of needs and the development of a responsible plan must be made through the parent and a recognized social service agency.

II. To secure planned supervised therapy in a private, organized treatment center such as Sweetser Home when such is necessitated by special needs of a physical or emotional nature.

III. To attend Governor Baxter State School for the Deaf, providing no adequate resource for therapy can be found or developed in the child's own community.

IV. To attend a vocational or technical school or college or university.

V. For care for a terminal illness which probably will prohibit eventual return to the home, although if possible the individual would do so.

VI. For other purposes, such as visiting or moving to another community and similar situations where temporary separation occurs. In such situations, the separation may not exceed four months unless the individual can demonstrate that there is a good reason and that the separation will end as soon as possible.

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2110.03 INCOME AND ASSETS

Countable income for the assistance unit must be equal to or less than 150% of Federal Poverty Level.

Countable assets for the assistance unit must be less than $2000.

2120 TRANSITIONAL MEDICAL COVERAGE

2120.01 FAMILIES WHO BECOME INELIGIBLE FOR COVERAGE UNDER SECTION 1931 DUE TO INCREASED EARNINGS OR INCREASED HOURS OF EMPLOYMENT

The increased earnings must be the determining factor in the loss of Section 1931 coverage. The earnings must be those of a specified relative who is receiving Medicaid coverage under Section 1931. If a family gains earnings and loses a household member, the earnings change alone must be the reason for the loss of this coverage.

These families may receive up to twelve (12) additional months of medical coverage known as Transitional Medical Assistance (TM). The twelve months are divided into two separate eligibility periods, each consisting of six months. There are different requirements for each extension. Families receiving TM must continue to assign their rights to payment for medical care from any third party. This is not a requirement to cooperate in obtaining medical support or payments from the non- custodial parent. (Sections 1240, 1241, and 1242)

The twelve month count starts with the first month of ineligibility which may not necessarily be the effective month of the loss of coverage under Section 1931.

EXAMPLE:

A family reports an increase in the parent’s earnings on April 5th. The case is now ineligible in April. The first month for TM is April, the first month of ineligibility, and not May which would be the effective month for the closing under Section 1931 coverage.

2120.01 cont.

INITIAL SIX MONTH EXTENSION (Months 1 - 6):

I. Conditions of Eligibility:

A. Each family must have received Medical Assistance under Section 1931 in one (1) of the prior three (3) months immediately preceding ineligibility. Retroactive coverage under Section 1931 will be counted for this purpose even if there is only one month of retroactive coverage and no current eligibility under Section 1931.

For example, the family applies in July. Eligibility exists only for June. The family gets coverage under Section 1931 for June and TM starting in July.

EXCEPTION:

A family is not eligible for the extension if there has been a determination by the State's legal system that any family members collected Medicaid under Section 1931 fraudulently at any time during the last six (6) months.

B. The closing of coverage under Section 1931 must be due solely to the following:

1. any increase in the specified relative's earned income.

C. It is not a condition of eligibility that the specified relative remain employed during the first six months of the initial extensionor that included individuals cooperate in establishing paternity and in obtaining medical support and payments. Individuals in the assistance group must comply with rules on assigning rights to medical support (through Third Party Liability [TPL]).

D. There is not an income or asset test for the initial 6 month extension.

E. Failure to file the income and child care report required in the fourth (4th) month does not affect the coverage provided in the initial extension.

F. The coverage group must include a child, under the age of eighteen or between the ages of 18 and 19 and a student regularly attending a secondary school on a full-time basis (or in the equivalent level of vocational or technical training at the high school level) and reasonably expected to complete the program prior to his or her 19th birthday, residing within the household.

2120.01 cont.

II. Covered Individuals:

A. All family members who were members of the Section 1931 assistance unit at the time of closing.

B. Anyone who moves into the home after TM has started as long as that person would have been covered under Section 1931 if the family were applying in the current month.

For example,
- a newborn
- a non-custodial parent returns
- a child moves into the home
- a stepparent moves into the home.

III. Client Reporting Responsibilities:

A. Each family must report when a child no longer resides within its household or when there are any other changes in the family composition.

B. Each family must file its report of gross earnings and child care expenses which is necessary for the employment of the specified relative by the 21st of the fourth (4th) month. The report will contain verified information for months one (1), two (2), and three (3) of the initial extension.

Good cause for failure to file an income and child care report on time or failure to file a completed report is established by the eligibility specialist. Some reasons for good cause include but are not limited to:

1. mail delay;

2. reported change of address too late in preceding month for data processing changes for mailings;

3. the 21st falls on a weekend or holiday, in this instance the due date becomes the next working day;

4. planned absences previously reported;

5. death or illness of a family member or responsible relative;

6. circumstances beyond the control of the responsible relative.

All other changes must be reported within the time frames outlined in Section 1420 - *Reporting Responsibilities* - unless otherwise specified.

IV. Agency Notice Requirements

A. At the time of the closing under Section 1931 rules, a determination must be made for the initial Transitional Medicaid (TM) extension and a notice sent informing the family of the following:

1. the family's eligibility for the extension and a medical card which lists all eligible members; and

2. the requirement to report the family's gross monthly earnings and necessary child care expenses by the 21st of the fourth (4th) month within the initial extension as a condition of eligibility for the additional extension (months 7 - 12); and

3. the availability of a second six month extension; and

4. the conditions under which the initial extension may be terminated.

B. In the third month of the initial extension, a notice (which is due in the 4th month) will be sent informing the family of the following:

1. the requirement to report its gross earnings and child care expenses for each of the three prior months; and

2. the optional availability of a second six month extension (months 7 - 12); and

3. a description of when a premium is required, how it is calculated, and when payments are due; and

4. a description of the scope of services provided within the second six months.

C. In the sixth month of the initial extension, a notice (which is due in the 7th month) is required informing the family of the following:

1. the family's option to continue into the second six month extension; and

2. the requirement for the family to file a report in the seventh month of its gross earnings and child care for the fourth (4th), fifth (5th), and sixth (6th) months of the extension; and

3. the amount of any premium, if any, due for the seventh (7th), eighth (8th), and ninth (9th) months of the extension; and

4. a description of the scope of services provided in the second extension; and

5. a description of reinstatement for any remaining months of this extension.

2120.01 cont.

V. Termination of Initial TM (Months 1 - 6):

A. TM will be terminated for the parent with adequate notice when a child no longer resides within the household; (see 2120.01 [I][F] for definition of “child”). Coverage for the child must continue for 12 months, unless the child has turned age 19, is no longer a state resident or is unable to be located.

B. A determination for any other potential Medical coverage must be done prior to terminating extended coverage;

C. In situations when the intended agency action is to terminate coverage, adequate and timely notice must be given to the recipient as described in Sec. 1442.

SECOND SIX MONTH EXTENSION (Month 7 - 12):

I. Conditions of Eligibility:

A. Families must have received TM for all six of the months within the initial extension to be offered the second extension.

B. Families must have filed a timely report of income and child care expenses in the fourth month as required.

C. The scope of services will be the same as those provided to those eligible under Section 1931.

D. The specified relative must remain employed in each month of the second extension. Families are only required to report a period of being unemployed at the time of filing an income report form. Good cause provisions will be considered for lack of employment and established by the Eligibility Specialist. Some reasons for good cause include but are not limited to:

Termination of Employment:

1. Dismissal
2. Illness of employed individual
3. Care of other ill family members who are residing within the household
4. Loss of transportation
5. Harassment
6. Risk to health and safety
7. Loss of child care if there is not any other adequate replacement
8. Other reasons which indicate the action was not deliberate or willful.

E. Countable income is defined as gross earnings minus child care expenses. A family's countable income must be less than 185% of the Federal Poverty Level to be eligible. The countable income is tested for 185% upon receipt of the required income reports.

F. Premiums will be charged for families whose countable income is greater than 150% of the Federal Poverty Level but less than 185%. The premium will be three per cent (3%) of the family's net income (see III. E. Premium Determination).

G. There is no asset limit in the second six (6) months of TM. Included individuals do not have to cooperate in establishing paternity or in obtaining medical support and payments. Included individuals must comply with the rules on assigning rights to medical support (through Third Party Liability [TPL]).

II. Covered Individuals

A. All family members who were members of the assistance unit under Section 1931 coverage at the time of closing under Section 1931 are eligible for coverage.

B. Anyone who moves into the home after TM has started as long as that person would have been covered under Section 1931 if the family were applying in the current month.

For example,
- a newborn
- a non-custodial parent returns
- a child moves into the home
- a stepparent moves into the home.

III. Budget Computations:

A. The only income used to determine if a family remains eligible for TM is gross earnings of financially responsible adults (see II, above, *Covered Individuals*), living within the household, as referenced in Section 2000.01 and the gross earnings of any caretaker relative and their spouse or stepparent who is getting coverage.

B. The actual cost for child care is an income deduction. Only that amount of child care costs necessary for the employment of the specified relative, will be allowed as a deduction as long as the family is liable for this expense.

C. Countable income for use in TM is defined as gross earnings minus allowable child care deductions in meeting the 185% test.

D. The family's countable income is determined from the two required reports for gross earnings and child care expenses. These reports are required in the fourth (4th) and seventh (7th) months during the extension.

2120.01 cont.

A review is due in the twelfth (12th) month in order to determine continuing eligibility for Medical coverage.

2120.01 cont.

Countable income is determined as follows:

1. Determine the family's total gross earnings for the required three month period.

2. Deduct from gross wages the allowable child care costs necessary for the specified relative's employment.

3. Divide by three to obtain the average monthly income.

4. Compare the average monthly income to 185% of the Federal Poverty Level for the family unit size. If the income is equal to or less than the limit, the family remains eligible. If the income is greater than the limit, benefits are terminated with adequate notice.

E. Premiums are required for families whose countable income is equal to or greater than 150% but less than 185% of the poverty level for that family unit size.

Monthly premiums will equal 3% of the family's net income (rounded down to the nearest dollar) and are to be paid by the 21st of the month following the month for which coverage is being granted. Example: June coverage requires premium payment no later than July 21st.

Net income for the purpose of establishing a fee is defined as gross earnings of financially responsible adults and caretaker relatives and their spouse/ stepparents who are being covered minus allowable tax and child care limited to only those amounts required by law. Allowable child care deductions are defined earlier in III b., page 50.

For a fee to be considered timely, it must be paid by the 21st of the month in which it is due. Good cause for failure to pay a fee on time can be looked at for late payments that are received no later than the last day of the month in which the payment is due. Good cause is established by the Eligibility Specialist. Some reasons for good cause include but are not limited to:

1. mail delay;

2. planned absences previously reported;

3. death or illness of a family member or responsible relative;

4. other unanticipated emergencies;

5. circumstances beyond the control of the responsible relative.

F. Premium Base Periods:

The premium charged, if applicable, for months seven, eight, and nine is based on the report filed in the fourth month of the initial extension. This report contains income and child care information from months one (1), two (2), and three (3) of the initial extension.

The premium charged, if applicable, for months ten, eleven, and twelve is based on the report filed in the seventh month of the extension. This report contains income and child care information from months four, five, and six of the initial extension.

When coverage of the parent ends due to non-payment, TM is possible for any remaining months of the extension. Prior to reinstatement any overdue premiums must be paid. Example: A parent receives coverage for June but fails to pay the required premium due no later than July 21st, therefore, coverage is closed August 31st. (June is 7th month in extension). In October the parent wants reinstatement for October (11th month). Since the family already received coverage for June, July and August the premiums for these three months are required before current coverage can be granted for October. Upon payment for June, July and August coverage, the parent can be reinstated beginning with October coverage. The October premium is due no later than November 21st. Since coverage was not provided in September, no premiums are due for that month.

NOTE: When a parent has been closed for TM and there is an unpaid premium due, the Eligibility Specialist will refer the case to Third Party Liability for possible collection.

IV. Client Reporting Responsibilities:

A. There are two reports required during the TM extension. They are due by the 21st of the fourth (4th) and seventh (7th) months of the extension. Verification of income and child care must be provided. Once child care has been verified, additional verification will only be needed if there is a change. In month 12 a review is due to determine continuing eligibility for Medical coverage.

2120.01 cont.

B. Each family must report in the same month when a child no longer resides within its household or when there are any other changes in the family composition.

C. Each family must report if the specified relative is no longer employed. Families are only required to report this information at the time of filing an income report form.

All other changes must be reported within the time frames outlined in Section 1420 - *Reporting Responsibilities.*

V. Agency Notice Requirements:

A. A review is due in the twelfth (12th) month. It is used to determine continuing eligibility for Medical coverage when TM ends.

VI. Termination of Benefits Second Six Month Extension:
Coverage for the child must continue for 12 months unless the child has turned age 19, is not longer a state resident, or is unable to be located.

TM for the parent will be closed with adequate notice when:

1. a child no longer resides within the household; This means there must be a child, under the age of eighteen or between 18 and 19 and a student regularly attending a secondary school on a full-time basis (or in the equivalent level of vocational or technical training at the high school level) and reasonably expected to complete the program prior to his or her 19th birthday, residing within the household.

2. a required income and child care report is not filed; or

3. the specified relative is no longer employed; or

4. the 185% income test is not met; or

5. a required premium is not paid timely nor good cause granted.

A determination must be made for any other possible Medicaid prior to the closing of TM.

In situations when the intended Agency action is to terminate coverage, adequate and timely notice must be given to the recipient as described in Sec. 1442.

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2120.02 FAMILIES WHO BECOME INELIGIBLE FOR COVERAGE UNDER SECTION 1931 OF THE SOCIAL SECURITY ACT DUE IN WHOLE OR IN PART TO INCREASED CHILD SUPPORT

Coverage under Section 1931 must have been closed solely because of an increase in the amount of child support or alimony being received by the family.

The family must have been eligible under Section 1931 for three (3) of the six (6) months prior to the month of ineligibility. Once eligibility for the four (4) month period has been determined, it continues regardless of whether the family meets other conditions of eligibility.

At the end of the four month period, the family's coverage is to be reviewed for potential future coverage. If eligibility does not exist, coverage is to be ended following advance notice procedures.

The four month count for extended Medical coverage begins with the first month of ineligibility even though the closing under Section 1931 is later.

Example: A client reports in May that her child support has increased and now the countable income exceeds program standards. The four month extension begins in May, even though the case cannot be closed for May.

2130 PREGNANT WOMEN

Pregnancy and the expected delivery date must be verified by a medical source. Pregnant women whose countable income is equal to or below 200% of the federal poverty level are eligible. (See Chart VI.) The household size is increased by one (or by two if the woman is expecting twins). Marital status, assets and cooperation with Third Party Liability (TPL) and support enforcement are not factors in determining eligibility. Once it is determined that a woman is eligible because she is pregnant and family income is equal to or below 200% of the federal poverty level, she continues to be eligible for 60 days beyond the date her pregnancy ends and through the last day of the month in which the 60th day falls.

Retroactive coverage may be granted for up to three months if the woman was pregnant and financially eligible.

In the case of unmarried parents, acknowledgment of paternity cannot be made prior to the baby's birth. Therefore, the father's income and assets, as well as his needs, would not be used in the determination of eligibility for the pregnant woman even if the needs of the unborn child were included in the budget.

For additional financial factors affecting pregnant women under the age of 21, see Section 2000.01 and 2422.

Only the pregnant woman is eligible under this income limit. Other family members must be in another coverable group.

If the individual is receiving inpatient hospital services on the last day of the month in which coverage as a pregnant woman occurs, eligibility continues until the last day of the in-patient stay if the individual continues to meet all other eligibility criteria.

2140 INDIVIDUALS UNDER AGE 21

I. UNDER AGE 1

Individuals under the age of one who are living with specified relatives or with unrelated others are eligible if they meet other applicable eligibility rules.

A. Income and Assets

Countable income must be equal to or less than 185% of the Federal Poverty Level.

There is no asset limit for this group.

If the individual is receiving inpatient hospital services on the last day of the month in which the first birthday occurs, eligibility continues until the last day of the in-patient stay if the individual continues to meet all other eligibility criteria.

2140 cont.

If the individual is receiving inpatient hospital services on the last day of the month in which the first birthday occurs, eligibility continues until the last day of the in-patient stay if the individual continues to meet all other eligibility criteria.

II. AGE 1 THROUGH AGE 18

Individuals age 1 up to and including age 18 (under age 19) who are living with specified relatives or who are living alone or with unrelated others are eligible for Medical Assistance if they meet other applicable eligibility rules.

A. Income and Assets

Countable income must be equal to or less than 150% of Federal Poverty Level.

There is no asset limit.

If the individual is receiving inpatient hospital services on the last day of the month in which the 19th. birthday occurs, eligibility continues until the last day of the in-patient stay if the individual continues to meet all other eligibility criteria

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III. AGE 19, 20

Individuals age 19 or 20 who are living with specified relatives or who are living alone or with unrelated others are eligible for Medical Assistance if they meet other applicable eligibility rules.

A. Income and Assets

Countable income must be equal to or less than 150% of Federal Poverty Level, and, countable assets must be less than $2,000.

If the individual is receiving inpatient hospital services on the last day of the month in which the 21st. birthday occurs, eligibility continues until the last day of the in-patient stay if the individual continues to meet all other eligibility criteria.

2150 OTHER SPECIAL GROUPS

2150.01 REFUGEES/ASYLEES

Persons who are eligible for services under the Refugee Resettlement Program (RRP) are eligible for Medical Assistance provided that financial and basic eligibility requirements are met. Eligibility is determined on the basis of need without regard to family composition or the presence of children. Age is not considered. Financial eligibility follows AFDC-Related budgeting.

I. SPECIAL ELIGIBILITY FACTORS

A. Each applicant must have a Form I-94, I-151, or I-551 indicating that the individual has been admitted under Section 212(d)(5) of the Immigration and Naturalization Act (INA) or granted asylum under Section 208 of the INA.

B. Any funds received through the RRP are counted as unearned income and used in determining eligibility.

C. The following guideline should be used for documentation:

1. Form I-94 may be accepted as proof of age.

2. Any documents that the refugees brought with them when they emigrated showing the relationship among family members is acceptable evidence of relationship.

3. School records and medical records established since arrival in the United States may be used as methods of verification.

4. Information recorded in the refugee assistance case folder may be used as supporting evidence.

5. If there are no written records of any kind, the refugee's statement is acceptable unless the statement appears unreasonable.

D. Only the assets which are available on the date of application are considered for the eight (8) month eligibility period. Assets which are unavailable to the refugee (including assets which were left behind when emigrating) are not considered. Only the income the individual is receiving on the date of application is used in determining eligibility for the eight (8) month period.

E. The income and assets of sponsors and any income-in-kind they provide is not used in determining eligibility.

2150.01 cont.

F. Children born to refugees in this country are considered United States citizens. They are issued alien registration numbers which are the same as their mother's with the suffix 01, 02, 03, etc. These children are considered a part of the refugee family in so far as eligibility is concerned.

G. Individuals who are dependents of repatriated United States citizens may be eligible during the first 90 days after their arrival in the United States if the individuals qualify as refugees under the RRP.

2150.01 cont.

II. LIMITATION

A. An individual can receive Medical Assistance as a refugee for only the eight (8) month period including the month that the refugee enters the United States.

EXAMPLE

The individual enters the United States as a refugee on July 1. She is potentially eligible to receive Medical Assistance as a refugee from July 1 through February of the following year.

B. An individual can receive medical assistance as a asylee for only eight months beginning in the month they are granted asylum.

EXAMPLE

An individual enters the United States in January, but is not granted asylum until November. November is the first month of the eight (8) month period.

C. This limitation applies on an individual basis.

D. At the end of the 8^{th} month period, eligibility is reviewed for other program categories. If none exists, medical coverage ends with timely and adequate notice.

This limitation does not apply to individuals who meet age factors for AFDC(family) related or SSI related coverage. If eligible under other programs, the individual should first be covered under those programs. The refugee program is one of last resort.

2150.02 IV-E ELIGIBLES AND STATE ADOPTION ASSISTANCE

An individual under the age of 21 who is receiving Title IVE funds from another state or is receiving state adoption assistance from another state and moves to Maine from out of state is eligible to receive categorically needy coverage. The income and assets of neither the child nor parents is considered.

There must, however, be an assignment of rights to medical insurance and the Department must be provided with a Social Security number for the child.

There are 3 groups of children who fall into this category:

I. children whose medical and financial circumstances qualify them for federal IV-E adoption assistance;

II. children whose medical and financial circumstances qualify them for federal IV- foster care assistance.

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III. children whose medical and financial circumstances quality them for state adoption assistance.

The foster or adoptive parents in Maine are provided with a written explanation of their status by the state of origin which usually serves as verification of their status.

2150.03 BREAST AND CERVICAL CANCER

Full Medicaid benefits are provided to women who have:

I. been screened for breast or cervical cancer under the Center for Disease Control and Prevention Program and,

II. are found to need treatment for breast or cervical cancer including a pre-cancerous condition.

III. The individual must be under age 65 and not covered by credible coverage as defined in Section 2701 (a) of the Public Health Service Act. Basically this means that the individual cannot have health insurance unless it is limited to coverage of one illness or service.

Individuals are initially authorized coverage under this group based on data collected by the Bureau of Health and transferred electronically to the Bureau of Family Independence. Coverage is continuous for one (1) year as long as the individual is receiving treatment. When eligibility under this group ends, the individual will be reviewed by the Bureau of Family Independence for continued coverage.

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2160 PRESUMPTIVE ELIGIBILITY

A pregnant woman is eligible to receive ambulatory prenatal care beginning on the day that a qualified Medicaid provider determines that the pregnant woman's family income is less than the Medical Assistance income limits. This coverage is called "presumptive eligibility".

The qualified Medicaid provider will use a presumptive eligibility application to establish the family size and income for the presumptive determination. Assets are not a factor in the presumptive eligibility determination. The Medicaid provider must contact the regional office of Medicaid within 5 working days after the date the presumptive determination is made to report the name, date of birth, and Social Security Number of each woman determined eligible under the presumptive eligibility standards.

Once the Medicaid provider has made a presumptive determination, the woman is eligible through the last day of the month following the month in which a presumptive determination is made. If the woman applies for Medicaid during this presumptive eligibility period, presumptive eligibility continues through the day that the Medicaid application is granted or denied.

EXAMPLE:

A pregnant woman is determined presumptively eligible by the Medicaid provider on September 14th. She receives coverage under presumptive eligibility through October 31. On October 31 she files an application for Medicaid. Because she applied for Medicaid within the presumptive eligibility period, the individual continues to be presumptively eligible through the day the application is granted or denied.

The Eligibility Specialist is required to provide appropriate notices based on the Medicaid application itself, but is not required to send any notice regarding the discontinuance of the presumptive eligibility period and the individual has no rights of appeal.

It is the responsibility of the Medicaid provider to inform the pregnant woman requesting presumptive eligibility whether she is eligible or not eligible for presumptive eligibility.

III. The following guideline should be used for documentation:

A. Form I-94 may be accepted as proof of age.

B. Any documents that the refugees brought with them when they emigrated showing the relationship among family members is acceptable evidence of relationship.

C. School records and medical records established since arrival in the United States may be used as methods of verification.

D. Information recorded in the refugee assistance case folder may be used as supporting evidence.

E. If there are no written records of any kind, the refugee's statement is acceptable unless the statement appears unreasonable.

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IV. Assets which are unavailable to the refugee (including assets which were left behind when emigrating) are not considered.

V. The income and assets of sponsors and any income-in-kind they provide is not used in determining eligibility.

VI. Children born to refugees in this country are considered United States citizens. They are issued alien registration numbers which are the same as their mother's with the suffix 01, 02, 03, etc. These children are considered a part of the refugee family insofar as eligibility is concerned.

VII. Individuals who are dependents of repatriated United States citizens may be eligible during the first 90 days after their arrival in the United States if the individuals qualify as refugees under the RRP.

2180 INDIVIDUALS INELIGIBLE FOR AFDC DUE TO 11/91 AND 3/92 CHANGES IN NEED STANDARD

Persons who lose eligibility for AFDC due solely to the 11/91 or the 3/92 changes in the Standard of Need are eligible for continued medical coverage until 6/30/93 at the same coverage level as they had when receiving AFDC. Those individuals who are not eligible for Medicaid will have their medical expenses covered out of state funds only. Whenever a change of income or circumstances is reported for an individual covered by the state funded program, a redetermination of eligibility for federally funded Medicaid will be made. Up until 6/30/93, individuals may go back to state funded medical coverage if they subsequently lose their federal coverage. Recipients covered under the state funded program must comply with all non-financial criteria for the federally funded Medicaid program, including, but not limited to, assignment of medical payments, residence and maintenance of a home for a dependent child. Review of financial eligibility is not required. Recipients of the state funded medical coverage are required to report any non-financial changes within ten (10) days of their occurrence

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2200 ASSETS

"Assets" are defined as equity in real or personal property which is owned in full or in part by an individual.

A "liquid asset" is an asset which is in cash or payable in cash on demand.

A "non-liquid" asset is a total or partial interest in real or personal property in which the individual has ownership.

"Equity" is defined as the fair market value of property beyond the total amount owed on it in mortgages, liens, and other debts.

Any asset owned by the individual which is of no salable value has no equity. Verification that the asset has no salable value may come from contact with two reliable sources.

"Fair market value" is defined as the price an item of a particular make, model, size, style, material or condition will sell for on the open market in the geographic area involved.

"Ownership" is determined by power, authority, or title to sell, exchange, convert or redeem the property in question. For treatment of jointly owned assets, see Section 2230.

"Available assets" are those in which the individual has a legal interest and the legal ability to convert the asset into money. Such assets can be liquid or non-liquid. If there is a penalty for early or late withdrawal to get the asset, the available asset is the amount after the penalty is taken.

"Unavailable assets" are those in which the individual has ownership but is legally unable to convert into cash.

Applicants and recipients of Medical Assistance are required to use their assets to meet their needs. Recipients are permitted to retain specific types and amounts of assets to meet current and future needs and remain eligible for Medical Assistance.

Available assets are to be used in determining eligibility.

Unavailable assets are not to be considered in determining eligibility. These include real estate or personal property the value of which is legally unobtainable by the individual. For example:

> Portions of insurance settlements earmarked and used, or intended to be used, for specific purposes (such as back medical bills, replacement of lost assets, and attorney and legal fees associated with the settlement) not duplicated by the items in the full need standard.

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Verification of use or intent to use may be shown through unpaid medical bills resulting from accident or injury, building contract agreements, verbal or written statements from providers for items lost or other clear and convincing evidence satisfying the eligibility worker that the settlement is not intended to be used for the day-to-day living of the client.

2200.01 TRUSTS

A "trust" includes any legal instrument or device that is similar to a trust.

For trusts established on or before 8/10/93 for services provided on or before 4/30/94:

> Irrevocable Trust Funds are unavailable assets as long as the trust arrangement exists and no member of the assistance unit nor any responsible relative residing in the home has the power to revoke the trust arrangement or change the name of the beneficiary.

The following rules are effective for trusts established on or after 8/11/93 for medical assistance provided on or after 5/1/94.

TRUSTS ESTABLISHED BY THE INDIVIDUAL

I. Special rules apply to the treatment of trusts established by the individual. These rules apply without regard to:

    A. the purposes for which the trust is established,

    B. whether the trustees have or exercise any discretion under the trust,

    C. any restriction on when or whether distributions may be made from the trust, or,

    D. any restrictions on the use of distributions from the trust.

II. A trust is considered to be established by an individual if the assets of the individual were used to form all or part of the corpus of the trust and if any of the following entities and/or individuals established the trust other than by will:

    A. the individual

    B. the individual's spouse

    C. a person, including a court or administrative body, acting at the direction or upon the request of the individual or the individual's spouse or with legal authority to act in place of or on behalf of the individual or the individual's spouse.

    When a trust corpus includes assets of someone other than the individual, these rules apply only to the individual's portion of the trust assets. The individual's countable income and resources must be prorated based on the proportion of the individual's assets in the trust to those other persons.

III. Revocable Trusts - are trusts which can under state law be revoked by the individual or an entity in (B) above or a court. It includes a trust which ends if some action is taken by the individual.

In the case of a revocable trust:

A. the entire corpus and the income produced by the corpus of the trust is considered a resource available to the individual.

B. payments from the trust to or for the benefit of the individual are considered income to the individual, and,

3. any other payments from the trust are considered to be assets that are transferred. The look back period for transfers is 60 months (see Section 4120).

IV. Irrevocable Trusts - are trusts which cannot in any way be revoked by the individual or entity in (B) above.

In the case of irrevocable trusts:

A. if there are any circumstances under which payment from the trust could be made to or for the benefit of the individual, the following rules apply:

1. the portion of the corpus that could be paid to or for the benefit of the individual is a countable resource to the individual. The income produced by this portion of the corpus is also a countable resource to the individual.

2. payments actually made from the corpus (or from income produced by the corpus) to or for the benefit of the individual are income to the individual.

3. payments actually from the corpus (or from income produced by the corpus), but not to or for the benefit of the individual, are a transfer of assets. The look back period is 36 months (see Section 4120).

B. if no payment could be made under any circumstances to or for the benefit of the individual the following rules apply:

1. the portion of the corpus from which no payment could be made to or for the benefit of the individual is considered to be an asset that has been transferred.

Income on this portion of the corpus from which no payment could be made to or for the individual is also considered to be an asset that has been transferred.

The look back period is 60 months (see Section 4120).

2. the date of the transfer is the date of the establishment of the trust or, if later, the date on which payment is unavailable to the individual.

3. the value of the transfer includes any payments made after the trust is established or payment to the individual is unavailable.

V. Exemptions

The following trusts are exempt from the provisions of A-D above. No transfer is considered to take place as a result of establishing the trust. The income and resources considered available to the individual are those made available by the trust.

A. a trust containing the assets of an individual under age 65 who does or would meet the SSI criteria for disability if:

1. the trust is established for the *sole* benefit of the individual by the individual's parent, grandparent, legal guardian or a court, and

2. the state will receive all amounts remaining in the trust upon the death of the individual up to an amount equal to the total medical assistance paid on behalf of the individual after due payment of any legal obligations of trust.

This trust is considered to be established for the "sole benefit of" the individual if no other individual or entity can benefit from the assets transferred in any way whether at the time the trust is established or at any time in the future. A trust may provide for reasonable compensation to trustees to manage the trust and for beneficiaries after Medicaid has been reimbursed.

The trust may contain assets of individuals other than the disabled individual.

This exemption remains once the individual turns age 65 as long as there are no changes in the terms of the trust once the individual attains age 65. Any assets added as of age 65 are not subject to exemptions under (E).

B. a trust containing the assets of an individual who does or would meet the SSI criteria for disability if:

1. the trust is established and managed by a non-profit association, and,

2. a separate account is maintained for each beneficiary of the trust but for purposes of investment and management of funds, the trust pools these accounts, and,

3. the accounts in the trust are established solely for the benefit of the disabled individual by the individual or the individual's parent, grandparent, legal guardian or by a court, and

4. to the extent that amounts remaining in the beneficiary's account upon the death of the beneficiary are not retained by the trust, the trust pays to the state an amount equal to the total amount of medical assistance paid on behalf of the beneficiary after due payment of any legal obligations of the trust.

A trust is considered to be established for the "sole benefit of" the individual if no other individual or entity can benefit from the assets transferred in any way whether at the time the trust is established or at any time in the future. A trust may provide for reasonable compensation to trustees to manage the trust and for beneficiaries after Medicaid has been reimbursed.

An individual age 65 or older is not automatically considered to meet the SSI criteria for disability. This must be determined as in section 3130.

C. trusts that are set up with retroactive SSI benefits awarded under the *ZEBLEY v. SULLIVAN* decision.

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TRUSTS ESTABLISHED FOR THE INDIVIDUAL BY SOMEONE ELSE

With trusts that are set up for the individual by someone else including those that are set up by will, trust funds are available assets unless the terms of the trust make them unavailable. If the trust is irrevocable, that is, no member of the assistance unit or any responsible relative residing in the home has the power to revoke the trust arrangement or change the name of the beneficiary, what is available to the client is what is made available according to the terms of the trust.

I. The terms of the trust may specify the amount/frequency and/or purposes for which the funds may be used or this may be left to the discretion of the trustee(s). The terms of the trust may use a combination of both trustee discretion and specific fund usage.

II. Of the funds left to trustee discretion, what is available to the client is whatever the trustee makes available.

III. Funds made available are considered as income or assets in accordance with applicable Medicaid eligibility rules for the situation.

IV. If the terms of the trust restrict withdrawal by written approval of a judge of the courts, regular withdrawals will be treated as any other income. Irregular withdrawals, in order to be disregarded, must be used to supplement the needs of the person for whom the trust is drawn up.

EXAMPLES:

A. An individual has a trust fund that was established upon the death of his parents based on their will. From this he is to receive $500 from the interest each month and $10,000 every three years to buy a new vehicle. The monthly payments are income. The $10,000 is used to purchase an excluded asset (the old vehicle is traded in to purchase the new one).

This trust is irrevocable in accordance with the provisions above. The terms of the trust specify the amount, frequency and for part of the payments (the $10,000) the purpose. Medicaid policy treats interest payments as income and excludes the vehicle as an asset.

B. A trust was set up for the individual by his father who is deceased. The individual is to receive $200 per month for as long as the fund lasts. The fund currently has $140,000. The individual can get all the funds in the trust if there is an emergency.

The $200 per month is considered income as long as this represents interest income. The remainder of the fund is considered an asset (currently $140,000) since it can be accessed by the individual.

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C. A trust is set up for the individual by her grandmother. It is irrevocable and the trustee has full discretion in disbursement of the funds (totaling $75,000) based on the needs of the individual.

Since the trust is irrevocable, what is considered available to the individual is whatever the trustee, in her discretion, makes available

2210 EXCLUDED ASSETS

In determining the value of assets that count against the asset limit, the following items are excluded:

2210.01 The home and surrounding lot if not separated by property owned by someone else, even when left temporarily unoccupied because of employment, job training, education, illness or disaster.

If the home is unoccupied, the assistance unit must demonstrate the intent to return.

2210.02 One vehicle used as the primary vehicle. The term "primary vehicle" applies to any vehicle, which is used to provide transportation, such as passenger cars, trucks, boats and special vehicles, including those that are unregistered, inoperable or in need of repair.

A second vehicle is exempt if:

A. needed for employment or to seek employment, or

B. needed to secure medical treatment, or,

C. needed to provide transportation for essential daily activities such as shopping, or,

D. modified for operation by a person with a disability or modified for the transportation of a person with a disability.

The above exclusions apply when a vehicle is temporarily broken down.

NOTE: The equity value of all the other vehicles will be used toward the asset limit.

To determine the equity value:

(1) Determine the fair market value. This is the average trade-in value from “The National Automobile Dealers Association's (NADA) Used Car Guide Book”, making appropriate deductions as listed in the guide but do not add for options. A household’s estimate can be used for vehicles not listed in the car guide unless it appears unreasonable. Allowance can be made for a vehicle in less than average condition if true value is verified by a reliable source.

(2) Subtract from the fair market value the total amount owed on the vehicle in mortgages, liens and other debts.

2210.03 Prepaid burial contracts (funeral agreements) established in accordance with Maine Law 32 MRSA 1401 as interpreted by the Attorney General in 1961.

2210.04 Burial spaces intended for the use of any member of the assistance unit.

2210.05 Basic maintenance items used in day-to-day living such as clothing, household furnishings, utensils, home and property maintenance tools and equipment, heirlooms, wedding and engagement rings, basic jewelry.

2210.06 Food produced in home farming for consumption by the assistance unit.

2210.07 Property, including real property, used in the production of income, such as boats, trucks, machinery and livestock used to produce income or intended for family consumption.

This property will continue to be excluded when it is precluded from use because of a temporary disability or any other reason beyond the control of the individual. It must, however, be established that resumption of income production is likely.

2210.08 Loan and grants such as scholarships, obtained and used for educational expenses other than current living expenses. This includes graduate and undergraduate loans, grants and scholarships from individuals, civic organizations, alumni organizations and educational institutions.

2210.09 Any grant or loan to any student for educational purposes made or insured under any program administered by the Commissioner of Education (example: PELL, SEOG, NDSL, Perkins, Work Study).

2210.10 Any payment made to volunteers under Title I (such as VISTA) of PL 93-113 pursuant to Section 404(g) of that law. This exclusion will not be applied when the value of such payment, divided by the number of hours the volunteer is serving, is equal to or greater than the current minimum wage. (PL 96-143.)

2210.11 Nutrition and Food Assistance. The value of supplemental food assistance received under the Child Nutrition Act of 1966, as amended, and the special food service program for children under the National School Lunch Act, as amended (PL 92-433 and PL 93-150).

Any benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965, as amended.

The value of USDA Food Stamps or Donated Commodities.

2210.12 The tax-exempt portions of payments made pursuant to PL 92-203, the Alaskan Native Claims Settlement Act.

2210.13 Supplemental assistance, such as General Assistance, provided by public or private agencies to help recipients and applicants meet emergency situations.

2210.14 Payments of Experimental Housing Allowance Program made under Annual Contributions Contracts entered into prior to January 1, 1975, under Section 23 of the US Housing Act of 1937, as amended.

2210.15 All JTPA or Job Corps payments except on-the-job training income of an individual, at least 19 years old, who is not a dependent child.

2210.16 Relocation assistance or allowances under the Federal Aid Highway Act of 1968. Also excluded are any payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

2210.17Payments to certain Indian Tribes.

I. Any funds distributed to members of tribes which are referred to in Section 5 of PL 94-254, 93-134, 94-540, 97-458, 98-64, 94-114 (effective October 17, 1975) or in PL 98-123 and 98-124 (effective, October 13, 1983).

II. Any income or assets accruing to members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians pursuant to PL 96-420, the Maine Indian Claims Settlement Act of 1980.

2210.18VA monthly payments made to or on behalf of Vietnam veterans' natural children regardless of their age or marital status for any disability resulting from spina bifida suffered by such children are excluded from income and resources. Interest earned on unspent payments is not excluded.

2210.18 Any payment for supportive services or reimbursement of out-of-pocket expenses made to individual volunteers, serving as Foster Grandparents, senior health aides, or senior companions and to person serving in the Service Corps of Retired Persons (SCORE) and Active Corps of Executives (ACE) and any other program under Titles II and III pursuant to Section 418 of the Domestic Volunteer Services Act of 1973 (PL 93-113).

2210.19 Reserved

2210.20 HUD community development block grant funds received to finance the rehabilitation of privately owned residences.

Individuals receiving a grant are precluded by HUD regulations from using grant monies for purposes other than major property repairs or capital improvements. Payment is by check made payable either directly to the contractor or jointly to the contractor and property owner.

2210.21 Benefits paid to eligible households under the Home Energy Assistance Act of 1980, Title III of PL 96-223 (HEAP).

2210.22 Any benefits paid through federal laws to eligible households for the purpose of providing energy assistance.

2210.23 Any unrestrictive personal loan from any source providing there is clear evidence of an agreement to repay the money. The following evidence will be used as proof of a bona fide loan:

II. A written agreement to repay the money within a specified time (signed by both parties); or

II. Evidence that the loan was obtained from an individual or establishment engaged in the business of making loans.

2210.24 Money received under the Radiation Exposure Compensation Act for injuries or death resulting from radiation due to nuclear testing and uranium mining.

2210.25 Escrow accounts set up by the U.S. Department of Housing and Urban Development (HUD) for families who are participating in the Family self-sufficiency Program are not considered a countable resource. Any interest paid on these accounts is not countable income. As long as a family is receiving any state, federal or other public assistance for housing they cannot access this account. The "Family Self-Sufficiency Program" is a 5 year program open to all Section 8 housing participants which aims to help the family become self-sufficient at the end of the 5 years. When the account becomes available, it is countable as a resource and/or interest income.

2210.26 INDIVIDUAL DEVELOPMENT ACCOUNTS (IDA)

An IDA is a special bank account that is set up by or for the individual to allow the individual to accumulate funds for specific purposes.

There are 2 types of IDA's in Maine: a Family Development Account (FDA) for TANF recipients and a Demonstration Project IDA which is available to anyone. The Demonstration Project IDA is also known as Assets for Independence Act (AFIA) IDA. Individual contributions to either IDA are matched by state and/or federal funds.

I. Family Development Account (FDA for TANF recipients)

A. any income used by the individual to fund this account is excluded as income.

B. any asset used by the individual used to fund this account is excluded as an asset including up to $10,000 of lump sum income remaining in the month following receipt.

C. any individual contributions that are matched are excluded as income or asset.

D. accrued interest on FDA funds is excluded as income or asset.

E. Withdrawals from these accounts at any time must be used for the following purposes in order for the fund to remain an exempt asset. When withdrawals are used for any other purpose this will result in the fund being considered a countable asset effective the month of the withdrawal. The TANF Program determines if this condition is met.

(1) expenses for education or job training to attend an accredited or approved post secondary education or training institution;

(2) the purchase or repair of a home that is the primary residence;

(3) the purchase or repair of a vehicle used for transportation to work or to attend an education or training program;

(4) capital to start a small business for any member of the assistance unit 18 years of age or older;

(5) health care costs of a member of the assistance unit that are medically necessary and that are not covered by public or private insurance;

(6) to address an emergency that may cause the loss of shelter, employment or other basic necessities;

(7) to address other essential family needs approved by the Department.

II. Demonstration Project Account (AFIA)

A. any income of the individual deposited in an AFIA are excluded as income.

B. any matched funds are excluded as income or assets.

C. accrued interest on AFIA funds are excluded as income or assets

D. withdrawal from these accounts is allowable only for certain reasons as determined by the agency authorizing this IDA. These reasons include post-secondary educational expenses, acquiring a residence, or expenditures for operating a business.

2210.27 Real Property which the assistance unit is making a good faith effort to sell at a reasonable price.

2210.28 Agent Orange Settlement payments.

2210.29 EITC for month of receipt and the following month.

2210.30 Payments made to victims of Nazi persecution under Public Law 103-286 (Nazi Persecution Victims Eligibility Benefits).

2210.31 Cash surrender value of life insurance.

2210.32 Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corp., et al., and payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement.

When payments are made in lieu of a class settlement, the agreement must be signed by all parties on or before 12/31/97 or 270 days after the date on which a release is first sent to the persons to whom the payment is to be made.

2210.33 Up to $8,000 of savings for an individual, $12,000 for an assistance unit of 2 or more. Any amount over the excluded amount is counted toward the asset limit. Savings is defined as an account which earns interest or dividends and includes:

* savings or checking account including those in a credit union,
* IRA,
* Keough,
* available cash value of an annuity,
* stocks,
* bonds,
* mutual funds.

The $8,000/$12,000 exclusion applies to all accounts subject to the exclusion. The exclusion is not applied to each account.

2220 COUNTABLE ASSETS

All assets not listed as excluded or unavailable are available and are, therefore, countable assets. These include but are not limited to, the following:

I. Savings Accounts

II. Checking Accounts

III. Stocks

IV. Bonds

V. Mutual Fund Shares

VI. Promissory Notes

VII. Mortgages

VIII. Certificates of Deposit

IX. Lump sum payments, such as

A. Gifts

B. Inheritances

C. Lottery winnings

D. Insurance settlements, such as

1. Property damage claims

2. Accidents (See Section 1240)

3. Injury and death benefits (See Section 1240)

E. An accumulation of past due income.

X. Real estate other than the home

XI. Non-excluded vehicles

XII. Jointly owned assets

2230 TREATMENT OF JOINTLY OWNED ASSETS

2231 LIQUID ASSETS

Liquid assets owned jointly by a member of the assistance unit and someone who is not included in the unit are considered to be owned completely by the member of the assistance unit.

EXAMPLE:

The parent in the assistance unit has a joint bank account with his mother (the children's grandmother). This account belongs entirely to the parent whose eligibility for Medical Assistance is being considered.

If the name of the individual who is applying for or receiving Medical Assistance appears on a joint bank account, any money in that account which the individual can show was contributed by one of the other joint bank account owners and who is not financially responsible for that individual is excluded. This exclusion does not apply to any money in the account which, even though contributed by the joint owner, is intended for use by the applicant/recipient (such as a gift). The Department will presume this portion is considered as any other available asset unless credible evidence is given showing this was not a gift.

Verification of ownership of the funds may be shown through bank statements, verbal contact or written statement from the source that provided the income to the account, letters of award showing proof of ownership, or other clear and convincing evidence satisfying the Medical Assistance Eligibility Specialist that the money in the account is not available to the applicant or recipient.

2232 STEPPARENT ASSETS

Assets owned solely by the stepparent are excluded unless the stepparent is a member of the assistance unit. This does not include any amount given to the unit (such as a gift). This portion is considered as any other available asset. Assets owned solely by the stepparent are excluded even if the legal parent is a member of the unit.

2233 REAL ESTATE AND OTHER NON-LIQUID ASSETS

In determining the value of this countable asset, the type of ownership must be established.

If the owners have "joint tenancy", each owner has an equal interest in the total value of the property.

If the owners are "tenants in common", each owner has an equal share in the property. Generally, each owner can sell that share without the consent of the other owners. If the terms of ownership prohibit sale of one owner's portion or the other owner(s) refuses to agree to sell, the real estate is excluded.

2240 ASSET LIMITS

If the assistance unit is below the maximum asset limit any day of the month, the unit is potentially eligible for coverage for that month.

I. The countable asset limit for the following Categorically Needy groups is $2000:

   A. Section 1931 eligibles,

   B. individuals age 19 and 20.

II. There is no asset limit for the following Categorically Needy coverage groups:

   A. pregnant women,

   B. children up to and including age 18 who are ineligible under Section 1931 of the Social Security Act

   C. Transitional Medical Assistance

   D. see Section 2150 for special groups.

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III. The maximum amount of countable assets an individual or assistance unit may retain for Medically Needy eligibility is:

$2,000 for one person
$3,000 for two persons
$ 100 for each additional person

To determine the appropriate assistance unit size, whose assets will be counted, and the asset limit.

I. Count all people who will be covered.

II. Add in the child(ren)'s legal parent(s) in the home, even if they are not to be covered unless they receive TANF or SSI.

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2300 INCOME

Income is defined as the receipt of money or goods or services. It is to be counted as income for the month in which it is received.

When income is garnisheed, the amount prior to garnishment must be used.

2310 TYPES OF INCOME

"Self-employment income" is received by a self-employed individual who is engaged in a business enterprise, farming, etc., as the owner or as one of a group of owners of an enterprise. The individual's income is related to the success of the enterprise.

"Regular income" is received by an employee at regular intervals and in the same amount each pay period, such as the income of salaried employees and hourly wage employees who work the same number of hours at the same hourly pay each week.

"Fluctuating income" is received by an employee in different amounts each pay period or at irregular intervals. The differences may be due to variations in the number of hours of work, variations in hourly wage, variations in output (such as piecework or some types of commissions) or variations in the number of employers (such as baby-sitting).

"Seasonal income” is not received year round, but rather is received over a shorter period of time. During the off-season, no income is received from the seasonal occupation. It is usually considered a supplement to an individual's annual income.

"Contract income" is received by employees who may derive their annual income in a period of time shorter than one year, such as school teachers.

"Income-in-kind" is the receipt of goods or services such as the provision of room and board instead of money.

"Attributed income" is the amount of tips reported to IRS by large restaurants. It is based on a formula and may not reflect the amount actually received by the employee. The attributed tips are shown on the W-2. It is the responsibility of the employer to keep a daily log of tips actually received. The log of tips will be used to determine the amount of tips countable as income. If there is reason to believe that tips are being underreported, the individual and, with the individual's permission, the employer or collateral sources should be contacted.

2311 UNEARNED INCOME

"Unearned income" is income that is not received in payment for the labor or services of an individual. It includes such benefits as Social Security, Veteran's Benefits, pensions, unemployment compensation, dependent's allotments, maintenance agreements, contributions, support payments, annuities, dividends, interest, and income-in-kind.

If the benefit is reduced due to an overpayment, the amount actually received is used.

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2312 EARNED INCOME

"Earned income" is income received in payment for the labor or services of an individual. It includes cash payments, wages, salaries, commissions, profits from self-employment (including rental income and money received from room and board) and contractual payments.

2313 LUMP SUM INCOME

Lump sum income is a non-recurring payment received as a result of an accumulation of income or windfall income . Some examples are: retroactive portions of Social Security, Workers' Compensation, Unemployment, Disability, VA or other benefits, pay raises, inheritances, lottery winnings, personal injury awards, property damage claims, divorce settlements, etc.

Lump sum income is treated as income in the month of receipt and as an asset in the following month. See Section 2322.07 for exclusions to income and Section 2210.26 for exclusions as an asset.

2320 EXCLUDED INCOME

Excluded income is that portion of monies, goods, or services that is not used in determining eligibility.

2321 TOTALLY EXCLUDED INCOME

The following items are not considered as income during any part of the budgeting process:

2321.01 Child support paid by the Department that is in excess of the monthly obligation. This applies only to TANF recipients.

2321.02 Income of children not included in the assistance unit.

2321.03 Wages of dependent children under the age of 21 as long as they are full-time students or part-time students not employed full time.

Students are considered students throughout the calendar year, including summer months as long as they intend to return to school in the fall.

A student is one who is attending a school, college or university or a course of vocational training designed to prepare the student for gainful employment. This includes a participant in the Job Corps Program.

An individual under the age of 21 may be considered a student regularly attending a school or a training course if

I. enrolled in and physically attending full time (as certified by the school or institution) a program of study or training leading to a certificate, diploma or degree, or

II. enrolled in and physically attending at least half-time (as certified by the school or institution attended) a program of study or training leading to a certificate, diploma or degree and is regularly employed in or available for and actively seeking part-time employment, or

III. enrolled in a program of study or training leading to a certificate, diploma or degree but unable to attend half-time or seek part-time employment because of a verified physical handicap.

2321.04 All JTPA income or Job Corps payments except on-the-job training income of an individual at least 19 years old who is not a dependent child.

2321.05 Food produced in home farming for consumption by the assistance unit.

2321.06 Experimental Housing Allowance Program payments made under Annual Contribution Contracts entered into prior to January 1, 1975, under Section 23 of the U. S. Housing Act of 1937, as amended.

2321.07 Payments for supportive services or reimbursement of out-of-pocket expenses made to Foster Grandparents, Senior Health Aides, Senior Companions, Service Corps of Retired Executives (SCORE), Active Corps of Executives (ACE), and any other program under Titles II and III pursuant to Section 418 of the Domestic Volunteer Services Act of 1973 (PL 93-113).

2321.08 Goods and services not included in the list of basic requirements (See Chart 1.)

2321.09 HUD community development block grant funds received to finance the rehabilitation of a privately owned residence. HUD monies must be used for major property repairs or capital improvements. HUD payments are made by check payable directly to the contractor or jointly to the contractor and property owner.

2321.10 Benefits from the Home Energy Assistance Act of 1980, Title III of PL 96-223 (HEAP).

2321.11Native American Settlements:

I. Any payments distributed per capita to or held in trust for members of any Indian tribes under PL 92-524, 93-134, 94-540, 97-458 or 98-64.

II. Receipts distributed to members of certain Indian tribes referred to in Section 5 of PL 94-114, effective October 17, 1975, and PL 98-123 and 98-124, effective October 13, 1983.

III. Any income or assets accruing to members of the Passamaquoddy Tribe, the Penobscot Nation and the Houlton Band of Maliseet Indians pursuant to PL 96-420 (the Maine Indian Claims Settlement Act of 1980).

IV. The tax exempt portions of payments made pursuant to PL 93-203, the Alaskan Claims Settlement Act.

2321.12Certain grants, loans and scholarships.

I. Any grant, loan, or scholarship to an undergraduate or graduate student for educational purposes made or insured under programs administered and supported by the U. S. Secretary of Education is excluded. These programs include the

A. Basic Education Opportunity Grant Program (Pell Grants).

B. National Direct Student Loan Program (Perkins Loans).

C. Supplemental Educational Opportunity Grant Program (SEOG).

D. Guaranteed Student Loan Program.

E. State Student Loan Program.

Verification of participation in any of these programs may be received from the student or the educational facility.

II. Loans and grants such as scholarships, obtained and used for educational expenses other than current living expenses. This includes graduate and undergraduate grants and scholarships from individuals, civic organizations, alumni organizations and educational institutions.

III. Also excluded is income from the

A. Federal College Work Study Program.

B. University Year of Action Program. This is an extension of Title I (VISTA) of PL 93-113 focusing on voluntary services by students enrolled in institutions of higher education.

2321.13 Income of persons who could be members of the assistance unit except that they are in a hospital, intermediate care facility (ICF) or skilled nursing facility (SNF). In most situations, the income of the individual in the hospital or nursing home is used to determine nursing home eligibility. This also takes place when the individual is in an acute care facility for a period of more than sixty days or immediately upon entering a hospital for a kidney transplant.

2321.14 Relocation assistance or allowances received under the Federal Aid Highway Act of 1968 or under the Housing Act of 1968. Also excluded are any payments under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970.

2321.15 Supplemental assistance provided by public or private agencies to help individuals meet emergency situations or the difference between income and the full need standard. An example of this is General Assistance, and Home Based Care Funds (LD 1620), Emergency Assistance, HUD and FmHA utility reimbursements.

2321.16 Title I volunteer payments (such as VISTA) of PL 93-113, Section 404(g). This exclusion will not be applied when the value of such payment, divided by the number of hours the volunteers are serving, is equal to or greater than the current minimum wage (PL 96-143).

2321.17 Nutrition and Food Assistance:

I. The value of supplemental food assistance under the Child Nutrition Act of 1966 (WIC), as amended and the special food services program for children under the National School Lunch Act, as amended (PL 92-422 and PL 93-150).

II. Any benefit received under Title VII Nutrition Program for the Elderly, of the older Americans Act of 1965, as amended.

III. The value of USDA Food Stamps or Donated Commodities.

2321.18 Annual Cost of Living increases (COLA) that take effect in January, February or March, will be excluded for the following groups until the month following the month that the new annual Federal Poverty Levels (FPL) are published in the Federal Register: any individual in a coverable group whose income limit is based on the FPL. This includes Cub Care.

For example, if poverty levels are published in February, the COLA's are not counted until April. This applies to applicants and recipients. This exclusion applies to COLAs such as Title II (Social Security) and Veterans Benefits.

2321.19 Money received under the Radiation Exposure Compensation Act for injuries or death resulting from radiation due to nuclear testing and uranium mining.

2321.20 Escrow accounts set up by the U.S. Department of Housing and Urban Development (HUD) for families who are participating in the Family Self-Sufficiency Program are not considered a countable resource. Any interest paid on these accounts is not countable income. As long as a family is receiving any state, federal or other public assistance for housing they cannot access this amount. The "Family Self-Sufficiency Program" is a 5 year program open to all section 8 housing participants which aims to help the family become self-sufficient at the end of the 5 years. When the account becomes available, it is countable as a resource and/or interest income.

2321.21 Incentive payments and training expenses paid by the ASPIRE-TANF Program whether in institutional or field training.

2321.22EITC received as advance payment in weekly wages or received in one sum.

2321.23 Agent Orange Settlement payments.

2321.24 Payments made to victims of Nazi persecution under Public Law 103-286 (Nazi Persecution Victims Eligibility Benefits).

2321.25 Payments made from any fund established pursuant to a class settlement in the case of Susan Walker v. Bayer Corp., et. al., and payments made pursuant to a release of all claims in a case that is entered into in lieu of the class settlement.

When payments are made in lieu of a class settlement, the agreement must be signed by all parties on or before 12/31/97 or 270 days after the date on which a release is first sent to the persons to whom the payment is to be made.

2321.26 VA monthly payments made to or on behalf of Vietnam veterans' natural children regardless of their age or marital status for any disability resulting from spina bifida suffered by such children are excluded from income and resources. Interest earned on unspent payments is not excluded.

2321.27 Interest on a Family Development Account (FDA) or a separate identifiable account set up under the same conditions as an FDA. (Section 2210.26).

2322 PARTIALLY EXCLUDED INCOME

The following items are excluded as income to the limits noted in the description of the item:

2322.01 The first $50.00 per month of current child support payments received by the assistance unit whether received through SELU or direct.

2322.02 Payments received from the Department or other agencies for foster children in licensed or approved homes who are not part of the assistance unit.

2322.03 Certain grants, loans and scholarships to the extent that they do not include funds for items such as food, shelter, clothing or personal needs:

I. Educational programs for veterans:

The Veterans Administration (VA) sponsors several different educational assistance programs. One does not have to be a veteran to qualify for assistance under some of the programs.

Each individual who qualifies for and receives educational assistance receives an award letter from the VA which indicates the amount to be received and the period of time during which it will be received.

That part of the payment that is actually for the student and that is actually used for such items as tuition, books, fees, equipment, transportation for school purposes, and child care services necessary for school attendance is not to be considered as income in determination of eligibility. Transportation cost will be figured in accord with IRS criteria and dependent care will be in accord with Section 2462.03 of this manual. That part of the payment received from the VA for an individual's dependents who are in the assistance unit must be counted as available income to those individuals.

II. Any portion of a loan, grant or scholarship not administered by the U. S. Secretary of Education which is used for items such as tuition, books, fees, equipment, transportation to and from school, child care services necessary for school attendance and any special clothing needs necessary to attend school. Examples of such grants, loans, or scholarships are those from the G. I. Bill, the Bureau of Indian Affairs, alumni organizations or individuals. Transportation cost will be figured in accord with IRS criteria and dependent care will be in accord with Section 2462.03 of this manual.

If any funds granted for educational purposes are based on need and consider the AFDC payment as income in determining educational assistance, the grant, loan, or scholarship may be excluded. This applies whether or not payment is made direct to the institution or to the student for educational purposes.

Verification of these conditions must be obtained through the student, the institution or the source prior to disregarding any portion of the funds.

2322.04 Any small gifts of income such as those received at Christmas, graduation, birthdays or anniversaries which are not in excess of $30.00 per recipient per quarter. This quarter is the three month period ending with the month of receipt.

2322.05 Reimbursement for job related expenses such as travel or uniforms to the extent that they do not represent a gain or exceed actual expenses.

2322.06 Any unrestrictive personal loan from any source providing there is clear evidence of an agreement to repay the money. The following evidence will be used as proof of a bona fide loan:

I. A written agreement to repay the money within a specified time (signed by both parties); or

II. Evidence that the loan was obtained from an individual or establishment engaged in the business of making loans.

2322.07From non-recurring lump sum income, exclude as income over amount used for:

I. attorney’s fees,

II. any portion earmarked and verified as having been used for the purpose for which it was paid (i.e., monies for back medical bills resulting from accident or injury, funeral and burial costs, replacement or repair of a lost resource, etc.)

In addition, exclude as income any amount used within 30 days of receipt for any of these purposes:

III. expenses for education or job training to attend an accredited or approved post secondary education or training institution;

IV. The purchase or repair of a home that is the family’s primary residence;

2322.07 cont.

V. the purchase or repair of a vehicle used for transportation to work or to attend an education or training program;

VI. capital to start a small business for any member of the assistance unit who is 18 years of age or older.

In addition, exclude as income up to $10,000 used within 30 days of receipt for any of the following purposes:

VII. health care costs of a member of the assistance unit that are medically necessary and that are not covered by public or private insurance;

VIII. to address an emergency that may cause the loss of shelter, employment or other basic necessities;

IX. to address other essential family needs approved by the Department;

X. transferred to a Family Development Account authorized by state law or to a separate identifiable account;

A. Withdrawals from these accounts at any time must be used for (III.) - (IX.) above. Withdrawals used for purposes other than (III.) - (IX.) above terminate the exemption of the fund as an asset. This determination is made by TANF.

Any amount remaining in the month following receipt is a countable asset.

2322.08 Contributions to an Individual Development Account (IDA). See the asset rule for a definition of an IDA.

I. Family Development Account (FDA for TANF recipients)

A. any income used by the individual to fund this account is excluded income.

B. any assets used by the individual used to fund this account is excluded as an asset including up to $10,000 of lump sum income remaining in the month following receipt.

C. any individual contributions that are matched are excluded as income.

D. accrued interest on the FDA is excluded as income.

E. Withdrawals from these accounts at any time must be used for the following purposes in order for the fund to remain an exempt asset. When withdrawals are used for any other purpose this will result in the fund being considered a countable asset effective the month of the withdrawal. The TANF Program determines if this condition is met.

2322.08 cont.

(1) expenses for education or job training to attend an accredited or approved post secondary education or training institution;

(2) the purchase or repair of a home that is the primary residence;

(3) the purchase or repair of a vehicle used for transportation to work or to attend an education or training program;

(4) capital to start a small business for any member of the assistance unit 18 years of age or older;

(5) health care costs of a member of the assistance unit that are medically necessary and that are not covered by public or private insurance;

(6) to address an emergency that may cause the loss of shelter, employment or other basic necessities;

(7) to address other essential family needs approved by the Department.

II. Demonstration Project IDA (AFIA)

A. any earnings of the individual used to fund the IDA are excluded as income.

B. any individual contributions that are matched by another party are excluded as income.

C. accrued interest on AFIA funds are excluded income.

D. withdrawal from these accounts is allowable only for certain reasons as determined by the agency authorizing this IDA. These reasons include post-secondary educational expenses, acquiring a residence, or expenditures for operating a business.

2400 BASIC BUDGETING PRINCIPLES

To determine eligibility for the assistance unit, the following steps must be taken:

I. Determine the assistance unit size.

II. Determine whose income will be budgeted.

III. Determine the gross monthly income of the assistance unit members and those individuals who are responsible for them.

IV. Deduct disregards.

V. Compare the result to the appropriate Federal Poverty Levels or Protected Income Level (PIL), whichever is appropriate.

Countable income limits are as follows:

A. specified relatives eligible under Section 1931 of the Social Security Act: 150% of the federal poverty level,

B. individuals age 19 and 20: 150% of the federal poverty level,

C. pregnant women: 200% of the federal poverty level,

D. children under age 1: 185% of the federal poverty level,

E. children age 1 up to and including age 18: 150% of the federal poverty level.

F. The protected income limit (PIL) is used in determining eligibility under Medically Needy; that is, for those who are in a coverable group but are over the income or asset limit for categorical coverage.

2410 TO DETERMINE THE APPROPRIATE ASSISTANCE UNIT SIZE AND WHOSE INCOME WILL BE BUDGETED:

I. Determine who is eligible to be covered.

II. Add the child's legal parent(s) in the home, even if they are not to be covered, unless they are receiving SSI. If the parent is included in a SSI or state supplement budget, the portion of the money allocated to the individuals in the Medical Assistance unit by SSI or State Supplement budgeting is counted in determining eligibility for this assistance unit.

III. Only when a woman's eligibility is based on pregnancy are the needs of the unborn child or children used to determine her eligibility.

EXAMPLE:

A nineteen year old pregnant woman is living alone and working. Her earnings place her over the Categorically Needy payment standard for an individual under age 21. At this point, the Eligibility Specialist must consider the needs of the unborn child in determining eligibility, using the standards for 2.

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2420 SPECIAL BUDGETING PROCEDURES

When determining eligibility for stepparent families, pregnant minors, or minor parents, newborns, strikers and sanctioned individuals, special budgeting procedures must be followed.

2421 STEPPARENTS

When determining coverage for a family with a stepparent, the following Medicaid rules must be applied.

I. A stepparent is financially responsible for his/her spouse, but not his/her stepchildren.

II. Children are not financially responsible for their parents or their siblings.

III. Legal parents are financially responsible for their children with whom they reside except for an independent child. An independent child is an 18-21 year old who is pregnant or a parent.

IV. An individual over age 21 needs to reside with and get coverage in the same assistance unit with their child under age 18 (or is in school and will not graduate before their 19th birthday) in order to have a Section 1931 coverage group.

OPTING OFF AND INCOME ALLOCATION

"Opting off" means that an individual has a coverage group and could be included in an assistance unit but is not included in that particular assistance unit.

V. A child can opt off. If a child opts off:

A. the child is not counted in the assistance unit size

B. the child's income does not count in (is not deemed to) the assistance unit

C. there is no income allocation to this child

VI. A legal parent is financially responsible for his/her child. The legal parent must be part of the assistance unit with his/her legal child unless the legal parent needs are met by a stepparent who is excluded. In this situation:

A. the legal parent is not included in the assistance unit size with his/her legal child but the legal parent income is still counted for (deemed to) his/her legal child. The legal parents gross income is used in this situation.

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2421 cont.

VII. A stepparent can opt on or off. If off, his/her assets do not count for the legal parent. If the stepparent is excluded from the assistance unit in order to cover the stepchild:

A. The stepparent is not counted as part of that assistance unit.

B. Stepparent income does not count for the stepchild but is counted for the legal parent.

C. All children for whom the stepparent is legally responsible must be removed from the assistance unit (the mutual child and stepparent's legal child).

D. The legal parent can allocate to the stepparent and to the mutual child after stepparent income has been allocated to them.

If the stepparent is excluded from the assistance unit for any reason other than to get coverage for the stepchild or the stepparent's assets are more than $2,000, the legal parent cannot allocate income to the stepparent. The legal parent can still allocate to the mutual child (after any stepparent allocation).

VIII: Example:

If the household consists of the stepparent, legal parent, stepchildren, and mutual children under age 21, first determine if the whole unit meets the financial criteria. If the entire unit is not eligible, there are several options:

A. Any child may be removed along with that child's income and assets. That child may be eligible as a member of another assistance unit as long as all financial eligibility rules are followed, specifically, financial responsibility.

B. A stepparent may choose to be excluded from the assistance unit. A stepparent must be excluded if his/her income causes ineligibility for the stepchild.

NOTE: If the stepparent is excluded from an assistance unit, all the children for whom the stepparent is financially responsible must be removed from this assistance unit. This includes the mutual children. An allocation must be made by the stepparent for those members who have been removed. These individuals may be eligible as members of another assistance unit as long as all financial eligibility rules are followed. When the stepparent is not included, the following exclusions will be applied to the stepparent's income:

2421 cont.

1. The first $90.00 of the stepparent's gross earned income.

2. An additional amount equal to the appropriate Full Need Standard for the support of the stepparent and other individuals who are living in the same household but whose needs are not taken into account in making the Medical Assistance eligibility determination and for whom the stepparent is financially responsible or are claimed by the stepparent as dependents for IRS purposes.

3. Any actual payments of alimony or child support to persons not living in the home.

4. Any amount actually being paid by the stepparent to individuals not living in the home but who are claimed or could be claimed by the stepparent as dependents for IRS purposes and under IRS rules.

All of the remaining income is considered available to the remainder of the assistance unit as unearned income.

NOTE: When the stepparent is an SSI recipient, the stepparent's needs, as well as income and assets, will be excluded in the determination of eligibility for the remainder of the assistance unit.

2421 cont.

C. The legal parent may be removed.

When the legal parent is removed, some or all of the legal parent's income may be used to determine the eligibility of the stepchildren. The amount of the legal parent's income available to the remaining assistance unit depends on how much of the legal parent's needs are met by the stepparent's income.

To determine the amount of the legal parent's income which is available to the stepchildren if the legal parent is removed:

1. Determine the countable monthly income of the stepparent as in VIII (B).

   If this amount is equal to or more than the appropriate Full Need Standard for one adult, the legal parent's needs are considered to be met. All of the legal parent's gross income is considered as unearned income, available to meet the needs of the stepchildren. Do not count any of the stepparent's income to meet the needs of the stepchildren.

2. Subtract any allocations from the legal parent's income (such as an allocation to a mutual child if the stepparent cannot meet the child's needs. The legal parent can also allocate to the stepparent as long as the stepparent is excluded in order to cover the stepchild.

3. Compare the result with the appropriate Full Need Standard for one adult.

2421 cont.

If this amount is less than the appropriate Full Need Standard for one adult, the legal parent's needs are not considered to be met. Subtract from the legal parent's gross income enough to meet the unmet need. The remainder of the legal parent's income is considered available as unearned income to meet the needs of the legal parent's children.

2422 PREGNANT MINORS AND MINOR PARENTS

A minor parent or pregnant minor is a legal parent who is under 18 years of age. In Medical Assistance, the financial responsibility of relatives is limited to available income from the grandparents to the minor parent or pregnant minor only, not to the grandchild. Therefore, a case involving a minor parent or pregnant minor maybe treated the same as an excluded stepparent case substituting the term "grandparent" for the term "stepparent" and "minor parent" for "legal parent". See Stepparent section, above.

When eligibility is based solely on pregnancy, see Section 2130.

If the grandparent(s) wants coverage, or it is to the advantage of those wanting coverage, everyone can be included as one assistance unit.

2423 RESERVED

2424 RESERVED

2425 STRIKERS

Definitions:

A "strike" is "any concerted stoppage of work by employees (including a stoppage by reason of expiration of a collective bargaining agreement) and any concerted slowdown or other concerted interruption of operations by employees" (20 USC 1942(2) - National Labor Relations Board).

"Participation in a strike" means an individual is involved in a strike, including persons who are absent from work without good cause during the strike period.

"Good cause for absence" means an individual may be absent from work provided the reason for absence is vacation, illness or emergency which began prior to the strike and continues into the strike period as long as the individual intends to return to work at the end of the vacation, illness or emergency regardless of whether or not the strike continues. An individual may also be absent for good cause if the individual can demonstrate that to return to work would jeopardize health and safety.

It is assumed that an individual who is participating in a strike on any day of the month will be on strike on the last day of the month. A striker who is on strike on the last day of the month is ineligible for assistance until the strike is ended. If the individual was assumed to be on strike on the last day of the month but the strike was settled prior to the last day of the month, coverage may be given for that month.

When a parent, stepparent or other specified relative included in the assistance unit is participating in a strike without good cause on the last day of the month, the income and assets of the individual are treated as if they were not on strike. See Section 2421, (for the stepparent) or Section 2000.01 (for the parent or specified relative) for the remaining assistance unit.

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2430 DETERMINATION OF MONTHLY GROSS INCOME

The gross amount of income (before payroll or other deductions) is used for earned income.

The source of income and the time frame in which it is received must be considered in determining the gross income for a particular month.

For prospective coverage, income anticipated to be received over the eligibility period must be used.

For retroactive coverage, the actual income for the period to be covered must be used.

2431 ANTICIPATING INCOME

Changes which are expected to occur before the next review must be explored.

The Eligibility Specialist should also discuss any potential changes in family size, assets, residency, income (especially unemployment, Social Security, Worker's Compensation or a new job), school attendance, disability, and note the ages of covered members (to determine if changes in coverage will occur because of age).

2432 REGULAR INCOME

The amount of income to be used is based on the frequency it is received. If the individual is paid once each month, that is the monthly gross income for the month in which it is received.

When income is received twice a month (usually the first and fifteenth of each month), multiply the gross wages by 2.

When income is received biweekly, multiply the gross wages by 2.15.

When income is received weekly, multiply the gross wages by 4.3.

Review or recall cases when regular income is expected to change.

2433 FLUCTUATING INCOME

In these cases, the individual's income must be examined over the broadest period of time possible. If the "year-to-date" (YTD) figure is an accurate reflection of the current situation (the rate of pay or the number of hours has not changed), divide the amount by the number of weeks the YTD covers and budget this average as regular weekly income.

2433 cont.

If the YTD is not accurate, the average weekly wage should be based on a review of current wage information. If the individual's wage information indicates weeks of unusually high or low earnings, the Eligibility Specialist must determine with the individual if these are expected to continue. If the high or low weeks of earnings are expected to continue, the wages should be used in the determination of eligibility. If the high or low amounts do not reflect the individual's usual pattern of wages, they should not be used in determining the average.

2434 CONTRACT INCOME

Divide the most recent contract income by the length of the term of the contract to arrive at the monthly average.

These cases should be reviewed or recalled the month prior to the month a new contract goes into effect.

2435 SEASONAL INCOME

Income is budgeted for the period that the individual is actually working. To determine an anticipated amount, use the income received for the most recent season of employment, taking into consideration any expected increases or decreases in income.

These cases should be reviewed or recalled the month prior to the start and end of the season.

2436 SELF-EMPLOYMENT INCOME

Income received by a self-employed individual who is engaged in a business enterprise. Such as:

1. independent contractors, franchise holders, owners/operators, farmers, people who produce and sell a product, and service-type businesses;

2. income from boarders;

3. income from roomers;

4. returns on rental property.

If the most recent tax return is available showing the profit or loss, and there have been no major changes, then the monthly gross income is determined by dividing the adjusted gross income amount by 12.

If a tax return is unavailable, the profits have changed considerably, or the business was started after the beginning of the tax year, the most detailed records showing the net profit should be used. The records may include ledger sheets, receipt books, self-employment work sheets, or any reasonable form of documentation. All deductions allowed by the Internal Revenue Service, including depreciation, may be used.

The net loss from one source of self-employment is deducted against other earnings including other sources of self-employment income of the individual, his/her spouse or other members of the assistance group. This applies whether a couple filed a joint income tax return or separate returns, and regardless of which member of the assistance group incurred the loss.

Do not allow a deduction for losses from a prior year.

2436 cont.

NOTE: The cost of providing room and board is $190.00 per month. The cost of providing room only is $85.00 per month. The cost of providing board only is $105.00. Any amount paid to the individual in excess of these figures must be considered earned income unless the individual can verify that the cost of providing room and board exceeds these amounts.

2437 INCOME-IN-KIND, VENDOR PAYMENTS AND OUTSIDE CONTRIBUTIONS

Unless excluded under Section 2321, income-in-kind, vendor payments or contributions toward budgeted items from persons not in the assistance unit, organizations or agencies will be treated in the following manner:

When *payment in full* for the items in the Basic Cost Chart (see Chart I) for food, housing, or clothing is made by other than someone in the assistance unit, the following percent of the appropriate Full Need Standard of those in the assistance unit will be considered as income in determining eligibility.

NOTE: All of the items listed in the appropriate section of the cost chart must be supplied or paid in full.

Housing	33.33% of the appropriate Full Need Standard
Clothing	15.00% of the appropriate Full Need Standard
Food	40.00% of the appropriate Full Need Standard

When there are adults or independent children in the assistance unit, the percent of the Full Need Standard which includes an adult is to be used. When there are no adults or independent children in the assistance unit, the appropriate Full Need Standard for "No Adult" is to be used.

2438 RESERVED

2450 MEDICALLY NEEDY

If eligibility does not exist as Categorically Needy, an assistance unit may still gain eligibility through the Medically Needy coverage group if:

I. assets exceed the Categorically Needy asset limit, or

II. countable income exceeds the appropriate federal poverty level.

NOTE: From this point, budgeting for Categorically Needy and Medically Needy are the same.

2460 DISREGARDS

Disregards are subtracted from the gross income.

2461 DISREGARDS FROM ALL INCOME

2461.01 SUPPORT ORDERED BY A COURT OR TITLE IV-D (SELU)

Income used to comply with the terms of court-ordered support or Title IV-D (SELU) support order for children outside the home will be disregarded. This also applies to income which is garnished for court ordered or Title IV-D support.

2461.02 INCOME ALLOCATED TO DEPENDENTS

There are situations where an adult member of the assistance unit is legally responsible for the support of individuals living in the home who are not eligible for coverage under Section 2110.

In such situations, that portion of the adult's income necessary to meet the unmet need of these dependents will be disregarded in the computation of available income. The unmet need will be determined by applying the available income of the dependents to the appropriate Full Need Standard. (Chart II)

If the adult member of the assistance unit elects to exclude an otherwise eligible child from the assistance unit, no allocation of the adult's income will be made toward the needs of the child. The child will be considered self-sufficient. In addition, income will not be allocated to any dependent with cashable assets in excess of the limit for the Section 1931 coverage group.

When determining eligibility based on pregnancy, the needs of an unborn child cannot be removed. No allocation can be made to an unborn child.

2462 EARNED INCOME DISREGARDS

2462.01 Reserved

2462.02 WORK-RELATED EXPENSES (WRE)

Disregard the first $90.00 per month of the total income earned by each individual in the assistance unit. This $90.00 disregard applies whether the individual is working part-time or full-time.

2462.03 DEPENDENT CARE

Disregard the actual cost, not to exceed $200.00 per month, for the care of each child under the age of two who is living in the home and receiving Medical Assistance.

Disregard the actual cost, not to exceed $175.00 per month, for the care of each child age two and older or an incapacitated adult who lives in the home and receives Medical Assistance.

The above disregards apply whether the individual is working full or part-time.